(3)

(1)

IN THE HON'BLE CHHATTISGARH HIGH COURT AT BILASPUR

W.P.NO. 647 /2003 (S.B.)

PETITIONER

Kuber Singh Sahu, aged about 46 years, son of Shri Amar Das Sahu, Upper Division Teacher, Government Higher Secondary School, Kirgi (PO Khursipar) Via – Dongargaon, Tah. Dongargaon, permanent resident of village Bhodiya, PO Singhola, Tah. And Distt. Rajnandgaon (Chhattisgarh).

P. R. No. 4857 Presented by Shri Avinash Mishra dated 13.02.03

VERSUS

RESPONDENTS

1) State of Chhattisgarh, through Secretary, School Education Department, Dau Kalyan Singh Mantralay Bhawan, Raipur (Chhattisgarh).

2) State of Chhattisgarh, through : Secretary, Tribal Welfare Department, Dau Kalyan Singh Mantralay Bhawan, Raipur (Chhattisgarh).

3) Collector, Tribal Scheduled Caste and Backward Class Welfare, Rajnandgaon (Chhattisgarh)

4) District Education Officer, Rajnandgaon (Chhattisgarh).

5) Shri Shriram Bhandari, Upper Division Teacher, Government Higher Secondary School, (PO Khursipar) Via – Dongargaon, Tah. Dongargaon, Distt. Rajnandgaon (Chhattisgarh).

पथ आयुक्त एस. शुक्ला बिलासपुर (छ.ग.) बिलासपुर तहसील

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WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA.

01) PARTICULARS OF THE PETITIONER:
As mentioned in the cause title.

02) PARTICULARS OF THE RESPONDENTS:
As mentioned in the cause title.

03) PARTICULARS OF THE ORDER AGAINST WHICH THE PRESENT PETITION IS BEING MADE:-

i) The memo dated 4/1/2003 of Respondent No.3 to Respondent No.4 (**Annexure P-1**) asking the

(71)

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO.647 OF 2003

Petitioner : Kuber Singh Sahu

Versus

Respondents : State of Chhattisgarh & others

WRIT PETITION (S.) NO.4585 OF 2005

Petitioner : Shri Ram Bhandari

Versus

Respondents State of Chhattisgarh & Other

SINGLE BENCH : HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI

Shri P.K.C. Tiwari, Senior counsel with Shri Avinash K. Mishra, counsel for the petitioner in W.P. No. 647/2003.

Smt. Anju Ahuja, Deputy Government Advocate for the respondents No.1 to 4 in W.P. No. 647/2003.

Shri Anup Majumdar, counsel for the respondent No.5 in W.P. No. 647/2003.

None for the petitioner in W.P.S. No. 4585 of 2005.

Smt. Anju Ahuja, Deputy Government Advocate for the respondents/State in W.P.S. No. 4585 of 2005.

O R A L O R D E R

(Passed on 31st of July, 2006)

1. The present writ petitions, being Writ Petition No.647/2003 and Writ Petition (S.) No.4585/2005, involve common

question of law as to posting in School Education Department. Thus, both the petitions are being disposed of by this common order.

2. The petitioner Kuber Singh Sahu in Writ Petition No.647/2003 (hereinafter referred to as 'the petitioner') was originally appointed as Teacher in Tribal Welfare Department of the then State of Madhya Pradesh on 3.7.1982. The petitioner Shri Ram Bhandari (hereinafter referred to as 'respondent No.5') in Writ Petition (S.) No.4585/2005 was appointed as Teacher in School Education Department. The petitioner was thereafter promoted to the post of Upper Division Teacher w.e.f. 7.8.1998.

3. According to learned counsel for the petitioner, the petitioner and respondent No.5 submitted joint application for mutual ex-change of their respective departments vide Annexure P-3. It appears that the petitioner belongs to Tribal Welfare Department and respondent No.5 belongs to School Education Department. Pursuant to the said application, the Government, by order dated 16.1.2002, posted the petitioner in Government Higher Secondary School, Kirgi, District Rajnandgaon, of the School Education Department and respondent No.5 was posted in Government Higher Secondary School, Kaudikasa, District Rajnandgaon of Tribal Welfare Department. Subsequently, by order dated 4.1.2003 (Annexure P-1), the District Education Officer, Rajnandgaon

was requested to repatriate the petitioner to his original department i.e. Tribal Welfare Department. By order dated 3.2.2002 (Annexure P-2), District Education Officer, Rajnandgaon, wrote to the Principal, Higher Secondary School, Kirgi, stating that the order dated 23.11.2002, whereby respondent No.5 was posted in Government Higher Secondary School, Kaudikasa, District Rajnandgaon of Tribal Welfare Department, stands cancelled. It was further stated that there is no order for transfer of the petitioner. Pursuant to status quo order with regard to posting of respondent No.5, dated 8.3.2002 passed by the State Administrative Tribunal, respondent No.5 continued in the School Education Department.

4. Learned counsel appearing for the petitioner submits that the petitioner and respondent No.5 are continuing in their respective Schools of the School Education Department.

5. On query, Smt. Anju Ahuja, learned Deputy Government Advocate, submits on the basis of letter dated 28.7.2006 of District Education Officer, Rajnandgaon, addressed to her that the State Government has no objection, if the petitioner and respondent No.5 are allowed to continue in the School Education Department.

6. In view of the frank and candid submission of learned Deputy Government Advocate appearing for the State Government,

that the State Government has no objection if the petitioner and respondent No.5 continue in the same Department, i.e., in the School Education Department, where they are working at present, it is not necessary for this Court to go into the validity and correctness of the order dated 4.1.2003 (Annexure P-1) and 3.2.2002 (Annexure P-2).

7. For the reasons above-stated, both the petitions are allowed. No order as to costs.

8. A copy of this order be placed in the record of the connected writ petition.

Sd/-
Satish K. Agnihotri
Judge

Gouri